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Amendment After Final
Attorney Docket No. S63.2B-9867-US01

Remarks

This Amendment After Final is in response to the Final Office Action dated September 21, 2004. In the Final Office Action claims 1-4, 6-10, 14, 15, 30, 33, 34, 38, 41, 42, 44, and 45 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,350,277 to Kokur. Claims 11-13, 35-37, and 39-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kokur '277 in view of U.S. Patent No. 5,591,223 to Lock et al. These rejections will be addressed under headings consistent with the headings of the Office Action. Claims 1, 30, and 38 have been amended. Claims 46 and 47 have been added. No new matter has been added.

The Advisory Action asserted that the WO 00/41649 application to Kokur is available as a 102(b) reference.

35 USC § 102

In the Final Office Action claims 1-4, 6-10, 14, 15, 30, 33, 34, 38, 41, 42, 44, and 45 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,350,277 to Kokur (the arguments listed under this heading also apply to WO 00/41649 as a 102(b) reference). Applicant has amended claim 1 to recite "the frangible member attached to only the side portion of the two interconnected members". Kokur teaches frangible members which overlap the two interconnected members and are not attached to only the side portion of the interconnected members. For at least this reason, claim 1 and claims 2-16 and 41-42 dependent thereof overcome the rejection.

Applicant has amended claim 30 to recite "the stent further comprising at least one frangible restraining member disposed completely between at least two interconnected members and restraining the interconnected members from self-expansion". Kokur teaches frangible members which overlap the two interconnected members and are therefore not disposed completely between the at least two interconnected members. For at least this reason, claim 30 and claims 31-37 and 44 dependent thereof overcome the rejection.

Applicant has amended claim 38 to recite "no portion of the temporary strut overlapping any portion of the outer surface of the permanent struts being restrained". Kokur's frangible members lie in part on the outer surface of the struts being restrained. This teaching is

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counter to the limitation recited above for amended claim 38. For at least this reason, claim 38 and claims 39-40 and 45 dependent thereof overcome the 102 rejection.

Applicant respectfully requests that the 102 rejection in light of Kokur be withdrawn.

35 USC § 103

In the Final Office Action, claims 11-13, 35-37, and 39-40 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kokur '277 in view of U.S. Patent No. 5,591,223 to Locke et al. Applicant asserts this rejection is inappropriate under 35 USC 103(c). However, the Advisory Action asserted that the WO 00/41649 application to Kokur is available as a 102(b) reference.

Applicant has amended claim 1 to recite "the frangible member attached to only the side portion of the two interconnected members". As asserted above, Kokur does not provide this teaching; nor can one look to Locke et al to find this teaching. For at least this reason, it is asserted that claim 1 and claims 11-13 dependent thereof are in condition for allowance.

Applicant has amended claim 30 to recite "the stent further comprising at least one frangible restraining member disposed completely between at least two interconnected members and restraining the interconnected members from self-expansion". As asserted above, Kokur does not provide this teaching; nor can one look to Locke et al to find this teaching. For at least this reason, it is asserted that claim 30 and claims 35-37 dependent thereof are in condition for allowance.

Applicant has amended claim 38 to recite "no portion of the temporary strut overlapping any portion of the outer surface of the permanent struts being restrained". As asserted above, Kokur does not provide this teaching; nor can one look to Locke et al to find this teaching. For at least this reason, it is asserted that claim 38 and claims 39-40 dependent thereof are in condition for allowance.

Applicant respectfully requests that the 103(a) obviousness rejection of claims 11-13, 35-37, and 39-40 be withdrawn.

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CONCLUSION

In view of the foregoing it is believed that the present application, with pending claims 1-15, 30, and 33-45 is in condition for allowance. Early action to that effect is earnestly solicited.

Respectfully submitted,

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